

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

BATES ENERGY OIL & GAS, LLC

v.

**COMPLETE OIL FIELD SERVICES
LLC AND SAM TAYLOR**

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CIVIL ACTION SA:17-CV-00808-XR

**COUNTER-PLAINTIFF COMPLETE OIL FIELD SERVICES LLC’S
ADVISORY TO THE COURT RE-URGING PREVIOUS MOTION FOR DEFAULT
AGAINST FSU**

1. On May 2, 2019, Counter-Plaintiff Complete Oil Field Services, LLC (“COFS”) moved for an entry of default against Counter-Defendant Unlimited Frac Sand, LLC d/b/a Frac Sand Unlimited (“FSU”) pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. *See* Dkt. No. 120.

2. FSU was one of four Counter-Defendants against whom COFS sought entry of a default. The others were Tier 1 Sands, LLC, David Bravo, and Lorena Silvestri Bravo. *Id.*

3. That same day, May 2, 2019, the Clerk entered a default against all of the Counter-Defendants against whom default was sought *except for FSU*. *See* Dkt. No. 122.

4. There was no explanation or order why a default was not entered against FSU. FSU had the same factual and procedural background as David Bravo and Lorena Silvestri Bravo. FSU is David Bravo’s company.

5. Since May 2019, FSU has still not answered COFS’s Fourth Amended Counterclaim, which was the basis for COFS’s request for entry of a default against FSU and the other Counter-Defendants who were defaulted on May 2, 2019. *See* Dkt. No. 120.

6. The Fifth Circuit has held that “[a] default occurs when a defendant has failed to plead or otherwise respond to the complaint within the time required by the Federal Rules.” *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996) (citation omitted).

7. COFS incorporates by reference its May 2, 2019 request for entry of default against FSU. To the extent that the Court and Clerk find it appropriate, COFS respectfully renews its motion and request that the Clerk enter default against FSU in accordance with Fed. R. Civ. P. 55(a).

Dated: February 26, 2020

Respectfully submitted,

/s/ Lamont A. Jefferson

Lamont A. Jefferson

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**ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

I certify that on this 26th day of February, 2020, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF system and served the following counsel of record in accordance with the Federal Rules of Civil Procedure:

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The following parties are not represented by legal counsel, and were served with the foregoing instrument by email in accordance with the Federal Rules of Civil Procedure:

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/s/Lisa S. Barkley

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